

**ENTERED**

February 06, 2017

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION

JOE PENA, SR.,  
TDCJ #00837174,  
Petitioner,

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VS.  
LORIE DAVIS, Director,  
Texas Department of Criminal Justice,  
Correctional Institutions Division,  
Respondent.

§ CIVIL ACTION NO. 6:17-CV-8

**ORDER**

The petitioner, Joe Pena, Sr. (TDCJ #00837174), is a state inmate incarcerated in the Texas Department of Criminal Justice - Correctional Institutions Division ("TDCJ"). Pena has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging the validity of a state criminal conviction (Dkt. 1). Because the petition is his third (at least) to challenge the same conviction, the Court will transfer this case to the United States Court of Appeals for the Fifth Circuit. *See In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997); *see also* 28 U.S.C. § 1631. Pena previously filed petitions in the Western District of Texas at case numbers 6:01-CV-91 (dismissed with prejudice at Docket Entry 12) and 6:05-CV-382 (forwarded to the Fifth Circuit as an unauthorized successive petition at Docket Entry 15).

Based on the foregoing, the Court **ORDERS** as follows:

1. The District Clerk shall **TRANSFER** this docket to the United States Court of Appeals for the Fifth Circuit pursuant to 28 U.S.C. § 1631 and the Fifth Circuit's opinion in *In re Epps*.

The Clerk shall provide a copy of this order to the parties and to the Clerk of Court of the United States Court of Appeals for the Fifth Circuit.

SIGNED at Victoria, Texas, on February 6, 2017.

  
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GEORGE C. HANKS, JR.  
UNITED STATES DISTRICT JUDGE